

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-29584
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: May 1, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 1, 2014, from Inkster, Michigan. Participants included the above-named Claimant. [REDACTED]

[REDACTED] appeared as Claimant's authorized hearing representative (AHR) / legal counsel. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The first issue is whether Claimant timely requested an administrative hearing.

The second issue is whether DHS properly terminated Claimant's Medical Assistance (MA) eligibility due to an unspecified Claimant failure.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing MA benefit recipient.
2. Claimant did not fail to submit documents to DHS.
3. On 9/17/13, DHS mailed Claimant a Notice of Case Action (Exhibits 1-3) informing Claimant of a MA benefit termination, effective 10/2013.

4. Claimant did not receive the Notice of Case Action because DHS misaddressed the mailing envelope.
5. On 2/18/14, Claimant requested a hearing to dispute the MA benefit termination.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

On 2/18/14, requested a hearing to dispute an MA benefit termination. DHS contended that Claimant's hearing request was untimely. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/2013), p. 5.

It was not disputed that DHS mailed Claimant a written notice of termination on 9/17/13; thus, it would appear that Claimant's hearing request was untimely. Claimant testified that he did not receive the Notice of Case Action.

During the hearing, it was discovered that DHS misaddressed the Notice of Case Action. Misaddressing a letter makes it probable that the letter will not reach the intended destination. Thus, it is probable that Claimant not receive notice of a benefit termination.

"Written notice", as it is written in DHS policy, is presumed to refer to a properly addressed notice. It is also presumed not to include notices that are misaddressed by DHS.

Based on the presented evidence, it is found that DHS failed to give Claimant proper written notice of case action. Accordingly, Claimant's hearing request cannot be untimely and the analysis may proceed to determine whether DHS properly terminated Claimant's MA eligibility.

It was not disputed that Claimant's MA eligibility ended due to an alleged Claimant failure to verify information. DHS policy outlines the requirements of verification requests.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how

to obtain it, and the due date. *Id.*, p. 2. For MA benefits, if the client cannot provide the verification despite a reasonable effort, DHS is to extend the time limit up to three times. *Id.*, p. 2. DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed.

Id., p. 6.

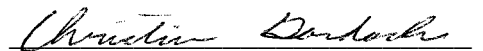
DHS could not state what information that Claimant failed to verify or whether a VCL was mailed to Claimant. DHS conceded that the closure may have been started by their own failure to properly mail correspondence to Claimant. Based on the presented evidence, it is found that DHS improperly terminated Claimant's MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's MA benefit eligibility. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA eligibility, effective 10/2013, subject to the finding that Claimant did not fail to verify information; and
- (2) initiate a supplement for any improperly unissued benefits.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/9/2014

Date Mailed: 5/9/2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

